

**UTAH
CONSTRUCTION SERVICES COMMISSION
MEETING MINUTES**

October 31, 2007

**Room 474 - 4th Floor - 09:00 A.M.
Heber Wells Building
160 East 300 South
Salt Lake City, Utah**

CONVENED: 09:00 AM

ADJOURNED: 12:00 PM

DOPL STAFF

F. David Stanley, *Director*
Dennis Meservy, *Bureau Manager*
Clyde Ormond, *Bureau Manager (Bureau 6)*
Wayne Holman, *Investigations Supervisor*
Yvonne King, *Commission Secretary*
Tony Patterson, *Assistant Attorney General*
Ray Walker, *Reg/Comp Officer*

MEMBERS PRESENT

Bradley Stevens, *Chairman & Electrical Board Chairman*
Wendy Gibbs
Joel (Marty) Jolley
Larry Love, *Burglar Alarm Board Chairman*
David Told, *Plumbers Board Chairman*

ABSENT

Steve Bowers, *Commission Member*
Ross Ford, *Commission Member*
Carl Tippetts, *Commission Member*
John Wilcox, *Commission Member*

VISITORS

Brandt Goble, *Painters & Tapers Local 77*
Erik Eastlyn, *Contractor's School Inc*
Rob Mason, *OPCMLA*
Rodney Marrelli, *State Tax Commission*
Joyce Sewell, *State Labor Commission*
Bill Starks, *State Workforce Services*
Margaret Stringham, *AK&R Whipple Plumbing*
Bassie Tafoya, *AK&R Whipple Plumbing*
Kent Whipple, *AK&R Whipple Plumbing*

MINUTES

Larry Love made a motion to approve the September 2007 commission meeting minutes. Joel Jolley seconded the motion and all members voted in favor.

CONTRACTOR PAY PRACTICES

The discussion of illegal pay practices by contractors was continued from the previous commission meeting. Brandt Goble presented written information and suggestions to address the problems of contractor payments to unlicensed contractors. Possible remedies included interagency communication, enforcement, fines, public awareness and accountability. Goble provided estimated lost tax revenue from other states. According to Goble, these contractors do not obtain workers compensation insurance.

According to Bill Starks, those who do not purchase workers compensation insurance do not receive the benefits. There currently is underway an agreement to share information between Work Force Services and the division, but before this can be fully accomplished the current law needs to be changed.

Providing 1099 tax information to the division would help with enforcement. Both Work Force Services and the Tax Commission receive this information from the federal government. The use of this tax information is restricted and cannot be shared with the division. Rod Marrelli indicated that those paid on a 1099 were still paying their taxes, which did not amount to a tax loss for the state. Marrelli said tax information is strictly regulated. They can receive information from other agencies, but cannot in return provide information to them.

Joyce Sewell said there are hefty penalties for an employer, who is required to but fails to have workers compensation insurance. There, however, is an exclusion from this requirement for sole proprietors and partners. The Labor Commission provides an exclusion certificate, from workers compensation insurance, to these individuals for fifty dollars that is good for three years. Sewell indicated they have three investigators for sixty-five thousand employers. Sewell stated they are working on an agreement, so information can be shared between the Labor Commission and the Department of Commerce.

The commission came up with the following recommendations for the state legislative Business and Labor Committee: 1) Make it easier to access data between state agencies. 2) Allocate appropriate funds. Increased enforcement would require additional investigators, auditors and prosecutors to handle the case load.

3) Increase public awareness. 4) Streamline the process for taking action against contractors. Love made a motion to approve these recommendations. David Told seconded the motion and all members voted in favor.

LIEN LAWS

Tony Patterson reviewed the statute for filing a lien. There was concern about the substantial completion date used in the present lien law. A contractor could do a considerable amount of work, after the substantial completion date, to complete a project and then find himself outside the timeframe for filing a lien. Ray Walker indicated a change in the law would require industry coming together.

CONTINUING EDUCATION

The commission's proposed changes to the continuing education rule had been reviewed on the administrative level by the Department of Commerce. The review resulted in additional suggested changes or a revision of the proposed rule(s). Dennis Meservy reviewed these changes with the commission. Love made a motion to approve the new revision of the rules. Told seconded the motion and all members voted in favor.

DISCIPLINARY REVIEW

AK&R Whipple Plumbing & Heating

Kent Whipple, as a condition of his April 2007 stipulation and order (DOPL # 2005-246), came before the commission. Mr. Whipple stated he has been working with Salt Lake City. Many of the building code problems had been corrected. However, there are homeowners that will not respond, so the necessary code corrections can be made or inspected. It appeared to the commission that Whipple was in compliance with his stipulation and order.

Swimming Pools by Design, LLC

Meservy presented the findings of fact, conclusions of law and order for Swimming Pools by Design (DOPL # 2007-160). Issues involved failure to replace qualifier and lack of workers compensation insurance. Order suspended the contractor's license for Swimming Pools by Design and revokes the license if proper documentation is not submitted to the division prior to March 31, 2008. Jolley made a motion to approve the order. Love seconded the motion and all members voted in favor.

Shay Higley Const. Inc

Meservy presented a default order for Shay Higley Construction (DOPL # 2007-154). Licensee failed to provide proof of insurance or appear for an administrative hearing.

The order revokes the contractor license for Shay Higley Construction. Told made a motion to approve the order. Jolley seconded the motion and all members voted in favor.

Virgil Zaugg

Meservy presented an amended stipulation and order for Virgil Zaugg (DOPL # 2007-156). The previous stipulation indicated Zaugg's conduct was unprofessional. Zaugg in this stipulation merely surrenders his license with the acknowledgement he had cancelled his insurance and was no longer in business. Told made a motion to approve the stipulation. Love seconded the motion and all members voted in favor.

Signs Unlimited, Inc

Meservy presented an order to reinstate the contractor license for Signs Unlimited (DOPL # 2002-231). The terms and conditions of the stipulation and order for Signs Unlimited appeared to be have been satisfied. The order would terminate the probation and reinstate the license for Signs Unlimited with full privileges. Wendy Gibbs made a motion to approve the order. Jolley seconded the motion and all members voted in favor.

Jerry Huff/Nevada Utah Concrete

Meservy presented an order to reinstate the contractor license for Jerry Huff/Nevada Utah Concrete (DOPL # 93-132). The terms and conditions of the stipulation and order for Huff appeared to be have been satisfied. The order would terminate the probation and reinstate the license for Huff with full privileges. Jolley made a motion to approve the order. Love seconded the motion and all members voted in favor.

Frandsen Electrical Services LLC

Meservy presented an order to reinstating the contractor license for Frandsen Electric Services (DOPL # 2004-253). The terms and conditions of the stipulation and order for Frandsen Electric appeared to be have been satisfied. The order would terminate the probation and reinstate the license for Frandsen Electric with full privileges. Love made a motion to approve the order. Gibbs seconded the motion and all members in favor.

INVESTIGATIONS

Wayne Holman submitted a report on criminal misdemeanor filings, criminal felony filings, administrative filings, citation fines, administrative fines, cases received, cases assigned, cases closed, citations issued, site surveys, building inspectors contacts, MHRV inspections, owner/builder permits received, owner/builder investigations and letters of warning. This report gave a comparison for the years 2003 to October of 2007.

Page 5 of 5
Construction Services Commission
October 31, 2007 Minutes

All business concluded meeting adjourned.

Note: This report is not intended to be a verbatim transcript, but is intended to record the significant features of what was discussed in the meeting. Discussed items are not necessarily arranged in chronological order.

(ss) Bradley Stevens
Bradley Stevens, Commission Chairman

Date: November 28, 2007

(ss) Dennis Meservy
Dennis Meservy, Bureau Manager

Date: November 28, 2007